

THE INDEPENDENT

TERMS OF SUBSCRIPTION:

Daily, By Mail, One Year \$9.00
 Daily, By Carrier, Per Month 1.00
 Weekly, One Year 5.00

Remittances at the risk of subscriber unless made by registered letter, check, or postal or express order payable to The Independent Publishing Company.

Persons desiring THE INDEPENDENT served at their homes or places of business can order by postal card or through telephone No. 100. Please report cases of irregular delivery promptly.

Advertisements, to insure prompt insertion, should be handed in before 8 p. m.
 Rejected communications not returned unless postage is inclosed.

HELENA, MONT., NOV. 22, 1889.

WHAT IT MEANS.

Will there be two legislatures?
 If the wicked counsels of Sanders and Hersfield are followed, Yes.

If there are men of courage, firmness and independence among the republican members of the legislature, No.

What will two legislatures mean?
 The election of two sets of United States senators for one thing, and a contest at Washington of which no man can see the end.

But it will mean more than that, and worse than that. It will mean the absolute break-down of the machinery of state; the paralyzation of all public business; no appropriations for state institutions, for official salaries; no sort of legislation for the needs of the new state; no laws other than the old territorial statutes; no progress, no prosperity for our people.

It will mean the stagnation of business, the ebb of the tide of immigration, the making of the name of Montana a gibe and a byword throughout the land.

Republican members who so lightly and roysteringly talk of going off by themselves at the request of Sanders & Co. to hold a separate legislature should reflect on what their action means. It is not a little brush that will be over when Sanders, Hersfield or Lee Mantle are elected senators. It is not a blockade for just a ninety days' session.

It is a two years' deadlock.

A bolt once made by the eight republican senators absenting themselves from the legally constituted legislature there can be no quorum for legislative business either at this or any other session. There will be a complete deadlock until another election is held in 1891.

Republicans of Montana, do you think the game worth the candle? Will you tamely submit to two years of chaos to gratify the ambitions of Sanders and Hersfield?

That is the question you have to face to-day.

THE PLAIN LAW OF IT.

We are somewhat surprised by the answer which the Herald attempts to make to our position concerning the legislature. We have yet to learn that calling names is an argument, or that sneering is debating, or that misstating is a proper answer. We never said that the ordinance "had no force until after the president's proclamation issued." So "it is pure foolishness to insist that the canvassers should have waited until the returns were all in or compelled the proper officer to file them." Is it? It was contrary to the law to count before they were all in. Perhaps our esteemed contemporary means that it would have been political "foolishness" for the republicans to so wait, because they would thus be defeated. So it would have been; but political honesty demanded that the board should wait. You know that you misstate the law when you say that "there was no territorial law requiring the clerks of counties to send any returns to the secretary of the territory." We say that you know it, because otherwise we must either conclude that you do not know what you write or that you do not believe what you write, because within five lines of that statement you say the board "used all the power with which they had been invested to secure the returns." Now, what do they do to secure the returns? They sent a messenger to the clerk "to secure the returns." How did they come to do that? Because the law said they should do so if the clerk neglected to send them within the time fixed by law. The board itself said (practically) that they were bound to do it. Now, in heaven's name, why did the board send a messenger to demand the returns of the clerk if the clerk was not bound to give them? Perhaps your legal editor is honest when he says the board "used all the powers," etc.; let us educate him in his profession. The law provides that a writ of mandamus may be issued "to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station." You will find that on page 206 of the code. You ought to know that the board did not have the properly certified returns from Silver Bow county, for that board in their report declares, "being, therefore, without any proper copy of the abstract of votes

cast in Silver Bow county," etc. Can it be possible that you do not believe what the board says? And so "the only penalty the law seemed to provide was that those counties which neglected to file their returns would be ignored in making up the returns and left without representation. If you wrote as you say we do, "with a carelessness savoring of the extreme frigid zone," you would not have said that. What, a county deprived of its representative because one man refused to do his duty, because the clerk refused to make the returns? Suppose that all the counties except Lewis and Clarke had voted against the constitution; suppose the clerks of those counties neglected to send in the returns—under such case, could the canvassing board count the votes of Lewis and Clarke county and certify to the president that the constitution had been adopted? Would the board satisfy itself by sending messengers? Is that "government of the people, by the people, for the people?" Nav. That would be government by clerks of counties or by canvassing boards.

You are mistaken. The board did not wait "the extreme limit of time allowed by any law." There was but one limit fixed by the congressional act; that law provided that "the returns of said election should be made to the secretary * * * who, with the governor and chief justice * * * shall canvass the same." That was the law controlling. If the territorial law was in conflict with that it could not control. But neither the provision of the convention nor the law was in conflict; the time was fixed within which the canvassing board must meet; they must meet on or before the thirtieth day after election (see subd. 5 ordinance 1); but it does not say that the canvass must be made within that time. Now, let the Herald be careful and not say that the law implies that, because if it does it will give the canvassing board a terrible blow. Why? Because that board held its sessions after the thirty days had expired; because that board issued its so-called certificates after the thirty days had expired. Upon this point we will call the attention of the legal editor to a New York decision: *People vs. Schiell* 95 N. Y., especially to page 122, where you will find the following:

"They (the board) are required to meet at the office of the town clerk on the day following the town meeting, to perform that duty (canvass the votes). While they were required to meet for the performance of this duty on a particular day, there is no limit of time mentioned within which the duty must be performed."

And so "delay" must cause injustice, must reverse the will of the people; might in such a case as we have supposed, admit Montana as a state against the will of the people. Now what nonsense that is. "The returns" must be "made to the secretary" before they can be counted—must, if it takes until doomsday. There may have been "nothing in the enabling act that indicated that the board of canvassers should help to steal this state, or to defeat the will of the people, or to guess at the number of votes cast for the constitution, or to 'ascertain or declare' that vote 'from the best sources of information obtainable.'" There is much therein to declare that they shall declare what vote was cast by the entire people for and against the constitution; there is therein to declare that they shall declare the will of the people; much to declare that not only "the best" but the sole "source of information" upon those questions should be the returns.

We never said "that the enabling act did not give to the constitutional convention any power to regulate the election of state officers or issue certificates of election." That convention had the power, but did not exercise it. By section 24 of the enabling act the laws of the territories "shall be in force in said states except as modified or changed by this act or by the constitution of the states." The convention could modify our laws by any provision in the constitution, if the constitution was adopted by a vote of the people; but no part of the territorial law could be changed or modified. See how carefully you yourself show the distinct and different acts—the elections of state officers and the issuance of certificates. But even here you mis-state the enabling act; that act never declared that the convention could "regulate the election of state officers;" it merely declared that "the convention may, by ordinance, provide for the election of officers for full state government, including members of the legislature and representatives in the fifty-first congress"—that is, the convention may declare what officers shall be elected—but not one word indicating that the convention could regulate the election by ordinance, or that they could by ordinance change or modify one of the laws in force.

Why was this provided? We had no state officers or state legislature, because we were a territory; therefore, it was necessary to provide for (not to regulate, Mr. Editor) the election of such officers. See how carefully the enabling act uses the word "certify" when it speaks of the returns concerning the adoption of the constitution and of senators and representatives to congress; observe that the act and the ordinance never use the word "certify" or the word "certificate" when state officers are concerned. Pray,

does any law, enabling act, ordinance or anything else, declare that the certificates which the canvassing board issued should be prima facie evidence of the right of the party to hold his seat?

THE CONTROL OF THE COURT HOUSE.

The court house is the property of Lewis and Clarke county, and the law makes the county commissioners its custodians and responsible for its safe keeping. The senior but unofficial organ of the state-stealers raises its falsetto voice in an agonizing wail because the commissioners have exercised commendable prudence and foresight in taking measures to protect the property in their charge.

On November 18, at a regular session of the commissioners, at which Messrs. Knight and Edgerton, Democrats, and Burns, republican—the entire board were present, the following resolution, offered by Mr. Burns, was unanimously adopted:

The board of county commissioners, in regular session, ordered:
 Whereas, Application has been made to us for accommodation in the county court house, in Lewis and Clarke county, for the use of the legislature of the state for the ensuing session, and

Whereas, We are informed by our counsel and legal advisers that there is no state officer who is now specifically instructed to enter into contracts of that nature for and in behalf of the state; now, therefore, in consideration of the premises,

Resolved, That we do hereby authorize our chairman, Mr. E. W. Knight, to, for and in our behalf, enter into any preliminary contract with Hon. J. K. Toole, governor of the state of Montana, for the rental of such rooms as he may desire for the use of the said legislature for the ensuing term, the rental or compensation to be fixed or adjusted by mutual consent or agreement to be entered into by the representatives of said legislative body after it shall have convened and properly authorized the same.

By order of the board,
 E. W. KNIGHT, Chairman.

J. S. TOOLE, Clerk.
 In accordance with this action Commissioner Knight and the governor have conferred regarding the arrangement and assignment of the rooms for the use of the legislature, but the governor has not taken possession of the halls heretofore used for legislative purposes and the board of commissioners have them in keeping as the law requires. The governor may or may not designate them for the meeting place of the legislature. If he does the keys will be turned over to him; if he doesn't the commissioners will keep charge of them.

The Herald and its panicky state-stealing friends should cool their fevered brows and not yell until they are hurt.

The plain duty of the senate of Montana is to refuse to occupy the rooms which the county commissioners think they have made the private property of Gov. Toole for the purpose of excluding them from members of the house of representatives. Herald.

This matter seems to be slightly rattle-dazzled, but rather than seem inhospitable we suggest that Col. Sanders invite the Judge and his associates to meet him in Weed's back office where the steal was originally put up.

The republican members of the legislature from Lewis and Clarke county all hold certificates from a republican county clerk, and therefore will not be humiliated by having to present Walker's fraudulent certificates to-morrow. They will not need to go off with the rumps who will meet in Sanders' office or Hersfield's barn.

Great Falls Notes.
 GREAT FALLS, Nov. 21.—[Special.]—L. W. Woodbury, of Michigan, has purchased a site for the Great Falls iron works and foundry, which he is about to establish. Tracklaying was begun to-day on the main line of the Great Falls & Neilhart railroad.

The Valeria Library & Art association has been started. The townspeople company has given a \$4,000 lot for the building, Paris Gibson has subscribed \$500 and Robert Vaughn \$100. Mrs. Paris Gibson will give a valuable library to the institution.

Representatives Lochroy, Waite and Mitchell went to Helena to-day. Senator Armstrong will arrive there to-morrow.

Prohibits in the Cold.

KANSAS CITY, Nov. 21.—Unless the law providing for the holding of elections in this state be changed before the next election, the prohibition party will not be able to place a ticket in the field. The law passed by the last legislature provides that no political party that did not at the last election poll 2 per cent. of the entire vote cast can place in nomination candidates for office. At the last election about 500,000 votes were cast, of which the prohibitionists cast 5,000. It is also doubtful whether the union labor party would be able to place a ticket in the field. It is understood the representatives of these will contest the constitutionality of the law.

The Ore Producers' Convention.
 SALT LAKE, Nov. 21.—The Ore Producers' convention has finished its labors to-day by adopting an address demanding the free coinage of silver, the repeal of the Bland law and the issue of paper certificates on deposit of silver bullion. Resolutions were also adopted calling for a union of the mining states and territories in a protective union for mutual benefits.

The Crime of a Crazy Mother.
 MOSHEVILLE, Mich., Nov. 21.—Mrs. Nathan Strong, who has been mildly demented for some time, last night forced her 18-year-old daughter to drink a glass of poison and then took a dose herself. When her husband returned she told him what she had done. Doctors were called, but the efforts to save the unfortunate women were unavailing and both died.

Disastrous Storm in China.
 SAN FRANCISCO, Nov. 21.—Mail advices from China and Japan say five lives were lost in the storm that passed over Hong Kong about the 20th. By a hail storm in the Kanowh province many houses were levelled to the ground, large numbers of cattle killed and scores of people injured.

3,000 Miles From Home.
 Received last evening, direct from Florida, a car of finest sweet oranges.
 LINSAY & CO., Lr'd.

Top of all kinds now on show at The Bee Hive.

THE CIRCUIT COURT.

An Application for an Order of the Survey of the Drum Lammun Lode.

The only case in Judge Hunt's court yesterday was the hearing of an application of the St. Louis Mining and Milling company. In this application the court is asked to order a survey of the Drum Lammun vein through properties owned and controlled by the Montana Co. (Limited). It is claimed by the St. Louis company that their lode is being trespassed upon. The proceedings yesterday were confined mostly to the testimony of experts. Prof. A. D. Churchill and Prof. J. R. Parks, of this city, were the witnesses of the St. Louis company, and George Robinson testified for the Drum Lammun people. Wade, Toole & Wallace and McConnell & Clayberg are the attorneys for the plaintiffs, and Sanders, Cullen & Sanders are attorneys for the defendants. The case will be continued to-day and the court calendar will be called Saturday.

NOTARY SEALS—New ones made and old ones changed. C. E. Kemp, Helena, Mont.

Real Estate Transfers.

The following real estate transfers were filed for record with County Clerk and Recorder Tooker yesterday:

United States to Richard Vaughn, new of 204, new of 204 and lots 6 and 7 section 6 in township 10 N. of R. 3, containing 148 acres.
 Jensen L. Perkins and wife to John S. M. Neill, lots 11 and 12, blk 12, lots 7 and 8, blk 15; lots 8 and 9, blk 24; lots 21, 22, 23, 24, blk 32; lots 5, 6, 7, 8, blk 55, and lots 11, 12, blk 63, Hanser addition. \$6,000
 Alex. J. Steele and wife to Jensen L. Perkins, lots 7, 8, blk 15, Hanser addition. 1
 Samuel T. Hauser and wife to Brandt (Ormsen), lot 13, blk 14, Flower garden addition. 500

Four quit claim deeds for right of way to Helena & Red Mountain railroad company, were recorded.

The creditors of Arthur O'Brien will take notice that all debts, bills, etc., must be paid to him only, and all debts due must be settled within ten days. Please call at his office and save costs.

Heavy leather soled hip rubber boots at cost at Bryan's Gun Store, 103 Broadway.

A nice decorated chamber set only \$3.50 at The Bee Hive.

Try It.

Try our best patent flour, the best in the market, and Whittaker Star hams, at J. H. T. Murphy & Co.'s.

Ladies, Fred Ganser is offering the best dress hose ever shown in this town for \$3.75.

A Bissel carpet sweeper only \$2.10 at The Bee Hive.

A fine line of Holy pictures now on sale at The Bee Hive.

In Another Column.

See Louvre bill of fare for to-day.

BARGAINS!

\$5000 Buys 12-Room House Near Business Center.

\$6500 Buys New House that Cost Over \$7000.

\$1800 Buys New 5-Room House.

\$200 Buys Choice Lot Fronting Broadwater Hotel.

100 Feet on Main St. VERY CHEAP!

Remember we are Agents for All the Choice Residence Property on the West Side.

Porter, Muth & Cox, GOLD BLOCK, HELENA.

MISSOULA Real Estate!

The Most Desirable Property in this Growing City is now Offered to those Desiring Quick Returns on Money Invested.

Lots can now be purchased that will yield investors 100 PER CENT within Ninety Days.

JNO. S. M. NEILL, ROOMS 6 AND 7, ASHBY BLOCK, HELENA, MONT.

RIGHT NOW!

In the Heart of the Season, Just When You Are in Need of Good, Nice, Warm Winter Clothing, is the Time to Look for Bargains.

No doubt you have often been disappointed by advertisements that promised wonders, and when you investigated you found that it meant an entirely different proposition, or that they were "just out of those goods," but would have some to-morrow, or else they would insist on showing you something else at prices they would not dare advertise.

What would be the object in advertising Ladies' Ribbed Cotton Vests (such as you wear in July and August) at this season of the year, even at 45c. a piece? It is simply a delusion and snare to get you in their stores.

What the Ladies want at this season of the year is the

SAXONY WOOL UNDERWEAR that we are selling for \$1.25 a piece, such goods as you pay elsewhere \$1.75 and \$2 for; Misses' and Children's proportionately as cheap, in all colors and sizes.

SENSIBLE CLOAKS

at sensible prices; Cloaks that wear; Cloaks that fit; Cloaks that are neat; Cloaks that are attractive; Cloaks at Prices that you can afford to pay for them; Cloaks for Ladies, Misses and Children. That's the kind of Cloaks we have to sell. We will discount ANYBODY'S prices on Cloaks, Ready Made Dresses, Tea Gowns and Wrappers for the next 30 days, and we have the largest assortment in Helena to select from.

We will offer some genuine bargains in Novelty Dress Patterns and Black Dress Goods this week.

We will save you money on all kinds of Dry Goods of same quality such as we offer. Investigate with intelligence, or ask those who have already done so. We don't expect every caller to buy. Come right in and look about you at the many Grand Bargains we are offering.

Raleigh & Clarke. Ground Floor Bailey Building, HELENA, MONT.

ST. AMOUR & LAMBIE, Real Estate & Mining Brokers, ROOM 18, BAILEY BLOCK.

SPECIAL BARGAINS IN GREAT FALLS LOTS, BLOCKS OR ACRES!

Lots, blocks and Acres in any Part of Helena or Adjoining the City! Money in any Amount at 10 Per Cent. No Commission and no Delays.

JARVIS-CONKLIN MORTGAGE TRUST CO.,

KANSAS CITY, NEW YORK, LONDON.
 North and Wyandotte Sts. 239 Broadway. 95 Gresham Street.

CAPITAL PAID UP \$1,500,000.

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